

1 A Yes.

2 Q And you made no effort to ascertain whether it was
3 responsive to what the Commission was asking. Is that
4 correct?

5 A I took the advice of my lawyer and signed it. I
6 did not inquire further about anything about it

7 JUDGE CHACHKIN: Did you want him to contact the
8 Commission directly and find out? Is this what you gave the
9 instructions to Mr. Campbell? Is that what you are
10 suggesting?

11 MR. BOYCE: No. What I'm suggesting, he might
12 have asked Mr. Campbell.

13 JUDGE CHACHKIN: Well, Mr. Campbell told him what
14 the Commission wanted. He had a conversation with Mr.
15 Campbell.

16 MR. BOYCE: Well, for instance, does "I" include
17 Pathfinder?

18 JUDGE CHACHKIN: Well, the fact of the matter is,
19 he didn't have any further conversation, and apparently the
20 Commission didn't contact Mr. Campbell further.

21 BY MR. BOYCE:

22 Q Turning to another matter, you indicated that
23 there are quite a number of your customers or acceptable
24 people who owe you money who are slow in paying. Is that
25 correct?

1 A I don't think I said that. What I said is this is
2 a slow pay business; that -- let me be more specific -- it
3 is common that -- that advertisers will wait 90, 120, 150,
4 some -- 180 that -- not a lot -- that long.

5 Q That's not -- and they do that because they know
6 that they can get away with it, is that correct?

7 A That is correct.

8 Q That's not the situation with Hicks Broadcasting
9 though, is it? I mean, they didn't maintain this receivable
10 just because they knew they didn't have to pay it in 30
11 days.

12 A No, no. And we knew them. So we knew -- we knew
13 we would get our money.

14 Q Well, the fact is they didn't have the money at
15 the time that it first became a receivable, is that correct,
16 when there was a receivable?

17 A Well, yes, that's probably right.

18 Q And when they did have the money, then that money
19 automatically flowed back into the Pathfinder account, is
20 that correct?

21 A It flowed into the common account.

22 Q Well, when -- when they had the money, they
23 automatically paid it, is that correct?

24 JUDGE CHACHKIN: You're asking him to speculate
25 about why the vendors -- when vendors paid the money?

1 MR. BOYCE: No, I'm talking about Hicks
2 Broadcasting.

3 JUDGE CHACHKIN: Hicks Broadcasting, okay.

4 BY MR. BOYCE:

5 Q And when Hicks -- under the accounting structure
6 as I understand it, the money would -- when Hicks had a
7 favorable balance and they owed Pathfinder money, then the
8 money would automatically get paid as a matter of the
9 account -- the way the accounts worked.

10 A I think it went both ways.

11 Q And why are you willing to put up with slow paying
12 in the case of advertisers?

13 A Well, I think you pointed that out. Because it's
14 a very competitive business.

15 Q You wanted to sell them more advertising.

16 A And -- and -- that's right. If we -- if we get on
17 their wrong side for -- then they can just go elsewhere.
18 It's one of those things in the life.

19 Q So the receivables from Hicks Broadcasting are not
20 analogous from advertisers, is that correct?

21 A No, I wouldn't say that. I'm only talking about
22 the way I thought about all receivables and as it related to
23 Hicks.

24 Q And for the same reason, you indicated that you
25 don't charge advertisers interest, is that correct, if

1 they're late?

2 A That's correct. I mean, we know they're going to
3 be late.

4 Q And isn't that for the same reason, that they
5 would go elsewhere with their business if you tried to
6 charge them interest?

7 A That's -- yes, that's right. Yes.

8 JUDGE CHACHKIN: Okay. Ten minute recess.

9 (Whereupon, a brief recess was taken.)

10 JUDGE CHACHKIN: All right. Back on the record.

11 Let me ask this. Do we have anything on the record as to
12 exactly what the Commission staff employee specifically
13 requests what information and specifically requested of Mr.
14 Campbell?

15 MR. SHOOK: Specifically on the record, the -- the
16 best evidence we have of what specifically was asked is what
17 appears in Mr. Campbell's letter and reading the statement
18 that Mr. Campbell prepared for Mr. Dille. We -- I guess I
19 can make this statement in response to your question.

20 We questioned the employees involved and we did a
21 search of the records that they maintained. And there was
22 nothing specific, either in the person's recollection or in
23 the person's records that would help us.

24 JUDGE CHACHKIN: Now, the designation order makes
25 much of what the staff -- questions the staff asked of Mr.

1 Campbell. And so it seems important.

2 MR. SHOOK: Well, there certainly --

3 JUDGE CHACHKIN: If there is an inconsistency, Mr.
4 Campbell requested from Mr. Dille, to know what the staff
5 employee specifically requested.

6 MR. SHOOK: I believe there is certainly a
7 suggestion in the order to show cause that there was
8 actually something concrete that the Commission had to look
9 at when it was preparing the --

10 JUDGE CHACHKIN: That's right.

11 MR. SHOOK: -- the order. And as I said, we -- we
12 searched and we couldn't find anything.

13 JUDGE CHACHKIN: Okay.

14 MR. SHOOK: Believe me, if we had it, it would be
15 here.

16 JUDGE CHACHKIN: Well, it seems to me that in view
17 of the importance of the misrepresentation issue, certainly
18 we should know what the basis for it is and namely what
19 question the staff employee asked.

20 MR. SHOOK: As I said, I'm afraid the best that we
21 have is simply taking, you know, in combination Mr.
22 Campbell's letter and the statement. And that's the best
23 that we've got.

24 JUDGE CHACHKIN: Well, what we know is that's Mr.
25 Campbell -- nothing was written to Mr. Campbell.

1 MR. SHOOK: Correct.

2 JUDGE CHACHKIN: So all we have then is Mr.
3 Campbell's interpretation of what the staff wanted.

4 MR. SHOOK: His recollection of what was asked him
5 and then what he put down on paper.

6 JUDGE CHACHKIN: That's right.

7 MR. SHOOK: And that's all we have.

8 JUDGE CHACHKIN: That's right. And we don't know
9 if that's inconsistent or not with what the staff wanted.

10 MR. SHOOK: The best that we can say is that it's
11 as -- it's as good as we're going to get.

12 JUDGE CHACHKIN: Okay. Let's continue.

13 BY MR. BOYCE:

14 Q Mr. Dille, focusing on the money that you provided
15 to your children in connection with their interest in Hicks
16 Broadcasting, did you consider them loans or gifts?

17 A I thought of them in the beginning as loans.

18 Q And did that change?

19 A Well, I -- I may in the end wind up giving them
20 the money.

21 Q Now, you -- are you aware that at the end of
22 1995 -- December 31st of 1995, Hicks Broadcasting paid back
23 to your children a substantial sum of money?

24 A Yes, I'm aware of that, yes.

25 Q Did you ask your children at that time to return

1 that money?

2 A There was some discussion of that, but not much.

3 Q And what was the resolution reached as a result of
4 that discussion?

5 A There was no resolution reached.

6 Q Did you discuss that with your children?

7 A Yes.

8 Q And isn't it true that a substantial part of that
9 money was subsequently used to make a contribution or a loan
10 to Hicks Broadcasting that was used to pay the licensee of
11 WNDU for the rights to "The Bob and Tom Show"?

12 A It -- it is my understanding that my children
13 loaned back into the -- out of that -- whatever the first
14 sum was, some of it went back into Hicks Broadcasting. And
15 then, yes, I think that that's exactly what happened over
16 that.

17 Q And did you give your children approval to use
18 that money for that purpose rather than to return it to you?

19 A I -- I didn't give them -- they had the money and
20 they did with it what they chose to do.

21 Q So you didn't ask that it be repaid to you?

22 A I didn't ask that it be repaid to me.

23 Q Now, in connection with "The Bob and Tom Program",
24 did you have any involvement in obtaining the rights to "The
25 Bob and Tom Show" from the licensee of WNDU?

1 A No.

2 Q None whatsoever.

3 A None.

4 Q Do you have any recollection of having a
5 conversation with the general manager of WNDU who is Mr.
6 James Bailey --

7 A Yes.

8 Q -- in which you said to him something to the
9 effect of, "Why don't you call Dave Hicks"?

10 A I don't recall that. I recall talking to him.

11 Q And did you discuss with him the availability of -
12 - the possibility of Mr. Hicks being interested in obtaining
13 the rights to "The Bob and Tom Show"?

14 A That may have come up. Let me tell you what I
15 did. There was all sorts of conversation in the market. It
16 was an interesting show. And it was surprising when the
17 university dropped it. I think Rob Ritter called me and
18 asked me about that. So I did talk to Jim Bailey. I was
19 curious to know what had happened.

20 Q And what did he tell you?

21 A He said -- I don't know exactly, but he said
22 someone at the administration had heard the show and didn't
23 like something that was said.

24 Q And did you suggest to him that he should talk to
25 Dave Hicks or words to that effect?

1 A No.

2 Q You didn't mention Dave Hicks at all?

3 A Well, I may have. I don't know what I -- I -- I
4 can't say I didn't. I think Ritter was calling Hicks.
5 Ritter was -- Ritter was then the representative of that
6 show. That show was purchased by John Booth. And this was
7 after.

8 MR. BOYCE: I have no further questions, Your
9 Honor.

10 JUDGE CHACHKIN: Any other questions of this
11 Witness by any?

12 MR. HALL: Very briefly, Your Honor.

13 JUDGE CHACHKIN: Mr. Crispin, you have nothing?

14 MR. CRISPIN: I have no questions for this
15 Witness, Your Honor.

16 BY MR. HALL:

17 Q Mr. Dille, if you could turn -- well, we may not
18 even need to look at it. If you would like to, it's Mass
19 Media Bureau Exhibit 1, page 31. It's your August 17, 1993
20 memo to Mr. Booth. I'm not going to ask you any specifics
21 about it. So if you don't need to look at it, that's fine.

22 A I know the one.

23 Q My question simply, Mr. Dille, is did you ever
24 show a copy of this to Mr. Hicks at or about the time that
25 you wrote it and sent it to Mr. Booth?

1 A No.

2 Q And did you ever inform Mr. Hicks that you were
3 going to send such a letter to Mr. Booth at or about this
4 time?

5 A No.

6 MR. HALL: That's all I have, Your Honor.

7 JUDGE CHACHKIN: Let's go back to this letter of -

8 -

9 THE WITNESS: Well, let me get it.

10 JUDGE CHACHKIN: -- turn to page 31. It was 31 I
11 assume, Bureau Exhibit 1, page 31.

12 THE WITNESS: Wait a second. Pathfinder's?

13 JUDGE CHACHKIN: No, Bureau.

14 MR. JOHNSON: John, it's Mass Media Bureau 1, page
15 31.

16 THE WITNESS: I've got it.

17 JUDGE CHACHKIN: The first sentence, "As we have
18 discussed", it says, "Dave Hicks of Broadcasting, Kalamazoo,
19 had indicated his intent", etcetera, etcetera. Now, what
20 discussion did you have with Mr. Booth regarding Mr. Hicks
21 and when did that occur?

22 THE WITNESS: I -- well, let me make sure I
23 understand the question. I learned from Booth that Hicks
24 was one of the guys, the potential buyers for WRBR.

25 JUDGE CHACHKIN: And how did you learn -- when did

1 you learn that?

2 THE WITNESS: I called him up in the end of June
3 or -- no, it must have been in July.

4 JUDGE CHACHKIN: And what did Mr. Booth say at
5 that time about Hicks being a potential buyer?

6 THE WITNESS: Well, he was considering Hicks -- he
7 was considering Hicks. I think he was considering also
8 Niles Broadcasting, although I'm not sure. He was
9 considering broadcasters in Benton Harbor (phonetic) which
10 is a town about 40 or 50 miles away, close, and -- and
11 someone else whose name escapes me. I don't remember that.

12 JUDGE CHACHKIN: But isn't it true that Mr. Hicks
13 had rejected the proposal of Booth as it was given to him;
14 namely, a million dollars in cash or a sum of that nature?

15 THE WITNESS: I heard him testify to that. I
16 don't know exactly what he did. He said that. He told me
17 that or something like that in the July 28th meeting. He
18 said he had heard about the station and he thought it was a
19 lot more money than -- than the number -- I mean, I don't
20 remember exactly. But it was substantially that.

21 JUDGE CHACHKIN: All right. So you -- you -- you
22 heard that Dave Hicks is one of the three or four possible
23 buyers of Booth's station. So what -- what -- what
24 discussions did you have then with Booth or some -- working
25 for Mr. Booth --

1 THE WITNESS: Ritter.

2 JUDGE CHACHKIN: -- with Dave [sic] Ritter
3 concerning Dave Hicks and his intent to become the
4 controlling interest and entity in acquiring WRBR?

5 THE WITNESS: I talked to Ritter and said, "Who
6 are you talking to?". And he said these names. I then met
7 with Dave Hicks and it's -- it -- I think I may have, if I
8 got your question right -- may have talked to Ritter at some
9 point and said I did meet with Hicks. Not only did I write
10 this note, but I may have by telephone communicated to
11 Ritter for the same reasons as he was Booth's
12 representative; that I was trying to push this ball along
13 for the ultimate purpose of keeping the JSA and heading him
14 off from trying to sell it to somebody else.

15 JUDGE CHACHKIN: Now, it says here that you had
16 some kind of discussion with Mr. Booth concerning Hicks'
17 intent to become the controlling interest in that -- the
18 acquisition of WRBR in which there were three children who
19 would each hold a third of minority shares. Now, did you
20 have such a discussion with Mr. Booth --

21 THE WITNESS: I --

22 JUDGE CHACHKIN: -- or with Mr. Ritter?

23 THE WITNESS: I may have said to probably Ritter
24 that if it's possible, if Hicks -- Hicks is interested in
25 this thing, and if it's possible, he might include my kids.

1 JUDGE CHACHKIN: Well, why did you bring up the
2 subject for your kids in a discussion concerning Hicks'
3 acquisition of WRBR?

4 THE WITNESS: I had known Ritter a long time.
5 Just because it was on my mind.

6 JUDGE CHACHKIN: But you're saying at the time you
7 had these -- you're referring here to discussions here.
8 Now, prior to the time you wrote this note to John Booth,
9 did you have a discussion with Hicks in which you brought up
10 the subject of which your children would have an interest in
11 WRBR?

12 THE WITNESS: Yes.

13 JUDGE CHACHKIN: Oh, you did have such a
14 discussion.

15 THE WITNESS: Well, here, let me say, on the 28th
16 of July --

17 JUDGE CHACHKIN: Yes.

18 THE WITNESS: -- Dave and I met at the Holiday Inn
19 in Kalamazoo and -- in which we discussed all sorts of
20 things: the JSA and among other things, all -- he was
21 interested in JSAs because they were new and we were doing
22 one with Booth. Excuse me. And so he was interested in
23 that.

24 And I talked also about other things that I had
25 hoped to be able to do. And I think in that conversation --

1 and if not in that conversation, very soon thereafter,
2 either on the telephone or in that second meeting -- I said,
3 "You know, maybe if" -- "if you're interested, you could
4 include my kids", if that made any sense.

5 JUDGE CHACHKIN: And what did he say in response?

6 THE WITNESS: He said virtually nothing. He was
7 listening. He nodded his head or something like that. He
8 didn't say no, but he didn't say yes. He was just gathering
9 information; at least that's what I thought he was doing.

10 JUDGE CHACHKIN: Now, you also said he would have
11 an arrangement option agreement to purchase from Hicks his
12 shares when and if that becomes possible. Now, you had a
13 prior discussion with Mr. Booth concerning the subject of
- 14 the option agreement?

15 THE WITNESS: No.

16 JUDGE CHACHKIN: So was this subject discussed
17 with Mr. Hicks --

18 THE WITNESS: I --

19 JUDGE CHACHKIN: -- either on July 28th or shortly
20 thereafter?

21 THE WITNESS: I believe, Your Honor, that I
22 mentioned the idea that if it were possible and if -- if it
23 were a desirable thing to him -- and I was thinking of his
24 retirement or something like that -- at some point in the
- 25 future, if my kids were qualified and so forth and if they

1 had run the station -- I'm sorry, if Hicks had run the
2 station for a while, that -- that I hoped that they might
3 have a chance to buy it.

4 Yes, I said those -- that has been a hope from the
5 beginning -- had been a hope from the beginning. So I said
6 that if not in that July 28th meeting, within a fairly short
7 period of time after that.

8 JUDGE CHACHKIN: And what did Hicks say in
9 response to that statement?

10 THE WITNESS: He said nothing. He was listening.
11 And in the end, we wound up talking about the whole thing
12 all over again with his lawyer.

13 JUDGE CHACHKIN: And you didn't bring up the
14 subject of your kids having an option when his lawyer was
15 present?

16 THE WITNESS: Oh, I did. I just -- I mentioned
17 that that --

18 JUDGE CHACHKIN: Then you brought it up again.

19 THE WITNESS: Well, I just -- he -- when we met
20 with Rick Brown on the 22nd of September, he wanted to hear
21 the whole story -- he, Rick Brown, wanted to hear the whole
22 story all over again. So I went through my -- my laundry
23 list.

24 JUDGE CHACHKIN: And what -- what response, if
25 any, did Mr. Hicks give this time to your statement about a

1 possible option agreement?

2 THE WITNESS: Again, none.

3 JUDGE CHACHKIN: And what was Mr. Brown's
4 response?

5 THE WITNESS: Nothing. He was making notes.

6 JUDGE CHACHKIN: He didn't say anything, he would
7 take it under consideration? There was just no response
8 whatsoever? Is that --

9 THE WITNESS: I don't recall it. Yes, I don't --
10 I wouldn't say there was none. But I didn't -- I don't
11 recall it.

12 JUDGE CHACHKIN: And you never brought up the
13 subject again until you instructed your children's lawyer in
14 late February I guess it was or late March --

15 THE WITNESS: Well, late March.

16 JUDGE CHACHKIN: -- late March, to insert the
17 option agreement in the joint operating agreement?

18 THE WITNESS: That's correct.

19 JUDGE CHACHKIN: The subject never came up again.

20 THE WITNESS: No.

21 JUDGE CHACHKIN: However, of course, the subject
22 came up about your children having a minority interest.

23 THE WITNESS: Yes.

24 JUDGE CHACHKIN: When did that come up next?

25 THE WITNESS: Well, coming out of the September

1 22nd meeting with Rick Brown, that I think caught the
2 interest of Dave. And that was acceptable to him because
3 out of that meeting, they, meaning Rick Brown and Dave
4 Hicks, took the ball and negotiated with Booth's lawyers,
5 Honickman I think -- Honickman or somebody, in Detroit and
6 completed the -- the asset purchase agreement. And they did
7 that at the tail end of November.

8 JUDGE CHACHKIN: Now, reading this note to John
9 Booth, one is left with the impression that you're talking
10 about WRBR as if it is your station and not Mr. Hicks:
11 "Clearly, we would like to proceed." Is this -- am I
12 drawing the wrong impression?

13 THE WITNESS: Oh, I think so.

14 JUDGE CHACHKIN: Well, can you explain to me why
15 the nature of the letter -- there are statements about "we"
16 and there is no mention about Hicks Broadcasting?

17 THE WITNESS: Here -- here is what I -- here is
18 what I intended to communicate to John Booth. John Booth
19 was wanting to sell his radio station. I wanted him to know
20 that -- that he had a -- I don't know how many potential
21 buyers. I don't think it was a long list. But it doesn't
22 matter. I wanted him to know that there was some motion,
23 some activity going on to get his station sold.

24 And from my perspective, I hoped that it would be
25 sold to somebody who would be amenable to retaining the JSA

1 with us. So I wanted him to know that something was going
2 on that was positive. We weren't just sitting on our hands.
3 And so I wanted to report that to him, just as I wanted
4 Campbell to look at this -- this idea I had that the -- that
5 the kids could be minority shareholders and report to Booth
6 if that was an acceptable structure. And that's why
7 Campbell wrote to Qualey, Booth's Washington counsel.

8 JUDGE CHACHKIN: So you were also concerned that
9 the Commission might object to having your children as
10 minority owners?

11 THE WITNESS: I don't think I was concerned. I
12 just -- because I had been told that that was an acceptable
13 thing, I just wanted Campbell to say that to Qualey. I
14 think that's what I had in mind.

15 JUDGE CHACHKIN: Now, turning to page 32 of the
16 same -- your Exhibit 1 which Mr. Campbell wrote to John
17 Qualey, this was written approximately the same time as --
18 not the same date it appears, but --

19 THE WITNESS: Yes.

20 JUDGE CHACHKIN: -- as your note to John Qualey.
21 What -- what did you communicate to Mr. Campbell that caused
22 him to write this letter to John Qualey?

23 THE WITNESS: I don't remember exactly what I said
24 to Alan. But my goal was to -- to tell Qualey and assure
25 Booth that this was an acceptable structure. Remember that

1 my thought was -- and it was only a thought at this stage --
2 that Booth -- if Hicks were able to enjoy the same
3 arrangement that I would -- the same terms and money that I
4 had almost completed with Booth, that he was going to be
5 holding paper. It was wholly a hundred percent solid
6 financing. So I wanted Booth to know that this was -- that
7 Hicks was an okay guy and that -- and that the structure was
8 a satisfactory structure. That was my goal.

9 JUDGE CHACKIN: Well, there's no mention of Mr.
10 Hicks in the letter of -- of Campbell to Qualey except for
11 there is a reference to the majority stockholder --

12 THE WITNESS: Right.

13 JUDGE CHACKIN: -- being an experienced --

14 THE WITNESS: Right.

15 JUDGE CHACKIN: -- radio broadcaster.

16 THE WITNESS: Right.

17 JUDGE CHACKIN: You say when you spoke to Mr.
18 Campbell, you mentioned Mr. Hicks as being the person in
19 line to be the majority stockholder?

20 THE WITNESS: Well, that's -- well, Hicks had said
21 -- had committed to nothing. So I wasn't sure it was Hicks.
22 But he is who I had in mind.

23 JUDGE CHACKIN: Now, turning to page -- your
24 Exhibit 1, page 31, where -- where is it again? In your
25 Exhibit 3 did you -- Mr. Johnson, that you relied on talking

1 about the representation to the Commission?

2 MR. JOHNSON: Yes, Your Honor. It is in -- in
3 mine, it's in Bureau Exhibit Number 3 at page 85 and 86.

4 JUDGE CHACHKIN: All right. Let's look at that.

5 THE WITNESS: Bureau Exhibit 3?

6 JUDGE CHACHKIN: That's right, page 85. It's the
7 same Bureau exhibit -- the same volume as Bureau Exhibit 1.

8 THE WITNESS: Page 83.

9 MR. HALL: Exhibit 3, Mr. Dille. You're in
10 Exhibit 1. The same volume you have here.

11 THE WITNESS: Page?

12 MR. JOHNSON: John, it's on page 86.

13 JUDGE CHACHKIN: Do you have it?

14 THE WITNESS: I have it.

15 JUDGE CHACHKIN: All right. First of all, did you
16 speak to Mr. Hicks before -- concerning this amendment to
17 the Commission?

18 THE WITNESS: I did not.

19 JUDGE CHACHKIN: So your only communication was
20 with Mr. Campbell.

21 THE WITNESS: Yes.

22 JUDGE CHACHKIN: And what did you do? You sent
23 the statement which was prepared by Mr. Campbell back to
24 Mr. Campbell --

25 THE WITNESS: I did.

1 JUDGE CHACHKIN: -- with your signature on it?

2 THE WITNESS: There were two. The first one came
3 with my father's --

4 JUDGE CHACHKIN: And it came with your father and
5 then you sent it back to him. And he -- or he prepared a
6 separate one which just contained your signature.

7 THE WITNESS: The only difference was the change
8 of the signature line.

9 JUDGE CHACHKIN: In the second conversation with
10 him, did you discuss any more of the contents of the
11 statement --

12 THE WITNESS: No.

13 JUDGE CHACHKIN: -- that you were to make?

14 THE WITNESS: No. The discussion occurred on
15 whether it was acceptable to take my father's name off of
16 there.

17 JUDGE CHACHKIN: All right. Now, you had the
18 first conversation that you had with Mr. Campbell. Tell me
19 in your own words what you remember Mr. Campbell asking
20 you -- tell you what this document was to be about.

21 THE WITNESS: It was a very short conversation
22 wherein he said, "They", and I think he was -- I mean, he
23 was referring to the Commission -- "are about to grant this
24 transfer. But they want a" -- "they want a statement from
25 you and your father that you will not finance the" -- "the

1 company that is buying WRBR and nor be involved in the day-
2 to-day operations of the station."

3 JUDGE CHACHKIN: Now, in your conversation with
4 Mr. Campbell, did he mention anything about the
5 involvement -- your financing your children's involvement in
6 the station?

7 THE WITNESS: No.

8 JUDGE CHACHKIN: Now, let me show you I guess it's
9 Bureau Exhibit 1, page 32 I assume. This is the one that
10 contains the statement --

11 MR. JOHNSON: Your Honor, it's -- I think it's
12 Bureau Exhibit 1, page 41, if you're talking about --

13 JUDGE CHACHKIN: Forty-one?

14 MR. JOHNSON: I believe so.

15 JUDGE CHACHKIN: All right. Let's see. Right.

16 THE WITNESS: This statement appears in a couple
17 of places in this --

18 MR. JOHNSON: It does, John.

19 THE WITNESS: Okay.

20 JUDGE CHACHKIN: Well, we'll talk about the one on
21 page 41 from Mr. Campbell to Mr. Hicks.

22 THE WITNESS: It just has a number 4 at the
23 bottom?

24 MR. JOHNSON: Right.

25 JUDGE CHACHKIN: Yes. First of all, a copy was

1 sent to Mr. Watson as you can see at the bottom.

2 THE WITNESS: Yes.

3 JUDGE CHACHKIN: Now, did Mr. Watson discuss this
4 letter with you?

5 THE WITNESS: Mr. Watson has no recollection of
6 ever receiving this.

7 JUDGE CHACHKIN: Well, did he discuss this letter
8 with you?

9 THE WITNESS: No. No. Sorry.

10 JUDGE CHACHKIN: As you can see in paragraph
11 three, Mr. Campbell is telling Mr. Hicks that, "The staff
12 wants a statement from John Dille and his father that they
13 will not be involved in the day-to-day operation of WRBR and
14 will not participate in the financing of the purchase of the
15 station for John's children."

16 Now, you're saying when Mr. Campbell spoke to you,
17 he did not mention anything about the financing of the
18 purchase of the station for John's children.

19 THE WITNESS: That's correct.

20 JUDGE CHACHKIN: And Mr. Hicks did not communicate
21 to you what Mr. Campbell had in mind.

22 THE WITNESS: No, sir.

23 JUDGE CHACHKIN: Now, let's look at the statement
24 itself on page 40, the page before that. And you signed the
25 statement. That looked specifically -- or you signed this

1 and represented that, "This is to advise the Commission that
2 I or nor my father will finance or guarantee the purchase of
3 the station by Hicks Broadcasting." What were you telling
4 the Commission in your own words?

5 THE WITNESS: That meant to me that it was
6 perfectly acceptable -- Peter had told me in October, here -
7 -

8 JUDGE CHACHKIN: No, I'm not asking what Peter
9 told you or -- I'm asking what did you mean to tell the
10 Commission when you said that as I've read -- as the
11 statement is represented to the Commission? What did you
12 want to connote to the Commission?

13 THE WITNESS: Well, I think I read that for -- to
14 mean just what it says, that I would not guarantee or stand
15 behind the obligations of that company.

16 JUDGE CHACHKIN: Now, did you when you read this
17 letter -- or you've made the statement I should say and
18 signed your name to it as a representation to the
19 Commission, what if anything were you telling to the
20 Commission concerning your financing of your children's
21 involvement in the station?

22 THE WITNESS: I didn't intend to express anything
23 about the financing of my children.

24 JUDGE CHACHKIN: Now, Mr. Campbell knew, am I not
25 correct, that you intended to loan money to your children to

1 pay for their financial interest in the station?

2 THE WITNESS: I'm not sure what Mr. Campbell knew.

3 JUDGE CHACHKIN: And you had no further discussion
4 with Mr. Campbell as to what the Commission had in mind when
5 they wanted you to make this representation to them?

6 THE WITNESS: No, sir.

7 JUDGE CHACHKIN: Now, am I correct that
8 information had been provided to the Commission concerning
9 the fact that your children would have a minority interest
10 in the station? Do you know that?

11 THE WITNESS: I -- I do believe that.

12 JUDGE CHACHKIN: And that was contained in the
13 assignment application?

14 THE WITNESS: I believe it was contained in the
15 ownership exhibit of the transfer application.

16 JUDGE CHACHKIN: Where is the -- is the transfer
17 application?

18 MR. JOHNSON: Your Honor, it's at Mass Media
19 Bureau Exhibit 3, page 314.

20 JUDGE CHACHKIN: Let's take a look at that. Now,
21 in your conversation. So it does show that the three Dille
22 children will have a -- have an interest in the station.

23 THE WITNESS: I believe it does.

24 JUDGE CHACHKIN: Now, in your conversations with
25 Mr. Booth, did you make any statement to Mr. Booth

1 concerning your intention to loan money to your children to
2 finance their interest?

3 THE WITNESS: To Mr. Booth?

4 JUDGE CHACHKIN: Yes.

5 THE WITNESS: No, not that -- not that I recall.

6 JUDGE CHACHKIN: And who was Booth's attorney
7 then? Mr. Qualey was it?

8 THE WITNESS: Well, Qualey was his FCC counsel.
9 He may have had someone else in Detroit. I mean, I think he
10 did have someone else in Detroit, but I don't know them.

11 JUDGE CHACHKIN: But you didn't not make any
12 mention to Mr. Qualey concerning your intent to furnish loan
13 money to your children.

14 THE WITNESS: No.

15 JUDGE CHACHKIN: When did you form an intent to
16 help your children financially?

17 THE WITNESS: I think that was -- I sought advice
18 on the question in the end of September or in October.

19 JUDGE CHACHKIN: 1993.

20 THE WITNESS: Of 1993.

21 JUDGE CHACHKIN: From whom did you seek such
22 advice?

23 THE WITNESS: Peter Tannenwald.

24 JUDGE CHACHKIN: And Mr. Tannenwald informed you
25 that it was perfectly all right for you to lend money to

1 your children?

2 THE WITNESS: He did. He said in the event of a
3 single 51 percent shareholder, that my kids are -- my kids
4 are minority interests, three of them, 16 and whatever
5 percent, that it was -- that in as much as they were that,
6 that they were non-attributable interests. He was crystal
7 clear on that. And therein, I could loan them money or give
8 them money or whatever.

9 And furthermore, that the Commission was aware of
10 or there was precedent or some standing of a parent giving
11 money or lending money to a child.

12 JUDGE CHACHKIN: Let me then ask you this other
13 question. Is there -- was there any requirement for proof
14 to have informed the agreement -- informed the Commission
15 about the joint sales agreement that you had with Booth?

16 THE WITNESS: I don't know what Booth's
17 obligations were.

18 JUDGE CHACHKIN: Well, do you know if Booth did
19 inform the Commission concerning these joint sales
20 agreements?

21 THE WITNESS: I --

22 JUDGE CHACHKIN: Does anyone know that?

23 MR. JOHNSON: Your Honor, may I --

24 MR. CRISPIN: Well, it's in the application -- in
25 the application, Your Honor.

1 JUDGE CHACHKIN: Which application?

2 MR. CRISPIN: The assignment application.

3 MR. JOHNSON: The assignment application.

4 MR. CRISPIN: It's right in there.

5 JUDGE CHACHKIN: Where is that? Let me look at
6 that.

7 MR. JOHNSON: Judge, it's at Mass Media Bureau
8 Exhibit 3. And the specific exhibit is at page 83.

9 MR. CRISPIN: Third paragraph.

10 JUDGE CHACHKIN: So when the Commission requested
11 further information in February, they knew of the existence
12 of the -- the -- I should say the joint sales agreement had
13 been made known to the Commission.

14 MR. SHOOK: Right.

15 JUDGE CHACHKIN: Well, there were a number of
16 questions asked this Witness concerning whether the
17 Commission was told about the joint sales agreement.

18 MR. SHOOK: Your Honor, I think the way the
19 questions were framed, it might have had something to do
20 with particulars. The mere existence of the joint sales
21 agreement is certainly disclosed in the application.

22 JUDGE CHACHKIN: All right. I have no further
23 questions. Anyone else?

24 MR. JOHNSON: I have just a very brief redirect.
25 The day is long and the hearing is long. I promise to be

1 brief.

2 REDIRECT EXAMINATION

3 BY MR. JOHNSON:

4 Q During Mr. Boyce's questions, Judge Chachkin
5 mentioned the hearing designation order. Have you read the
6 hearing designation order in this case?

7 A I have.

8 Q And one of the issues raised in the hearing
9 designation order is whether or not you have been truthful
10 and candid in your efforts to deal with the Commission,
11 isn't it?

12 A Yes.

13 Q So just before we close the record in this case,
14 do you -- you want to say anything on that topic?

15 A I would if you would allow me.

16 Q Yes, go ahead.

17 A I'm 57 years old. I've been in this business all
18 my life, 30 years; eight years in the Army. In all my time,
19 no one and nothing has ever challenged my credibility and my
20 reputation like this thing has.

21 I'm proud of what I've done. I'm proud of what my
22 father before me did and his father before him. The
23 business has been good to me. It's been good to all of us.
24 I would not risk that, stations in Cincinnati, Fort Wayne,
25 Grand Rapids, Tulsa, South Bend, for a three kilowatt radio

1 station in South Bend, Indiana. I would look down my nose
2 at that. I simply would not knowingly, willingly risk that.

3 Now, if I have in any way led anyone to wrong
4 conclusions, I -- I would have done so unintendedly, and I
5 would apologize for that. But I want to reiterate, I would
6 not risk all that I have done for this. And I thank Your
7 Honor for this last observation.

8 JUDGE CHACHKIN: Anything further of this Witness?

9 MR. JOHNSON: No, Your Honor.

10 JUDGE CHACHKIN: You're excused. Thank you, Mr.
11 Dille.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 JUDGE CHACHKIN: One more witness do we have?

15 MR. JOHNSON: Yes, Your Honor. We have one more,
16 Your Honor. Your Honor, we're calling Mr. Henry Bowman.

17 JUDGE CHACHKIN: All right. Is Mr. Bowman here?

18 MR. JOHNSON: He should be momentarily.

19 JUDGE CHACHKIN: Mr. Bowman, raise your right
20 hand.

21 MR. BOWMAN: Your Honor.

22 Whereupon

23 HENRY L. BOWMAN

24 having been first duly sworn, was called as a witness

25 herein, was examined and testified as follows:

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1 JUDGE CHACHKIN: Please be seated.

2 DIRECT EXAMINATION

3 BY MR. BERNTHAL:

4 Q Mr. Bowman, you're usually accorded a great deal
5 of respect. You should get some, especially today because
6 you're going to be our last witness in the case. Would you
7 state your name for the record, please.

8 A Yes, it's Henry L. Bowman. And I go by Jeff
9 Bowman.

10 Q And your address, please.

11 A 2467 North Lakefield Court; Arlington, Virginia.

12 Q Mr. Bowman, what has been your formal education?

13 A I have a BA from the University of Virginia in
14 1966 and a J.D. from the Dickinson School of Law in 1969.

15 Q Mr. Bowman, have you ever been employed by the
16 Federal Communications Commission?

17 A Yes, I was, from 1969 to 1984.

18 Q And what position did you first hold when you were
19 first employed by the Commission?

20 A I was a staff attorney from 1969 to 1975. And I
21 started out in the Complaints and Compliance Division. I
22 worked in the Renewal Branch. I worked in the Hearing
23 Division for about a year. I worked in the Review Board,
24 and then back to the Renewal Branch.

25 Q And did you at any time shortly after sampling

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1 after those -- those lovely places to work, did you -- did
2 you get a promotion?

3 A Believe it or not, I did. I think -- you know,
4 the rumor was I couldn't hold down a job very long.

5 Q All right.

6 A In 1975, I became Chief of the Renewal Branch. I
7 held that position until about 1978.

8 Q And as Chief of the Renewal Branch, did you become
9 familiar with the qualifications required of radio and
10 television licensees?

11 A Well, a part of the renewal application dealt with
12 looking at character qualifications. And in addition to
13 that, when I took over in 1975, the branch had a back-log of
14 about 280 petitions to deny. And under my leadership and
15 with a really excellent staff, we were able over the course
16 of three years to reduce that to almost a current back-log.
17 So many of those petitions dealt with character issues.

18 Q And in the licensing process, how many licenses
19 did you review during your tenure at the Renewal Branch?

20 A In those days, renewals were filed every three
21 years. So it much have been over 10,000 different renewals.

22 Q After your experience in the Renewal Branch, where
23 did you work next?

24 A I was named Chief of the Policy and Rules Division
25 in the Broadcast Bureau. And that division really was

1 charged with making policy. Deregulation was very key in
2 those days, and basically recommending to the Bureau Chief,
3 recommending to the Commissioners, various changes in -- in
4 rules dealing with regulation of broadcasting.

5 Q Let's see, I'm not aware that you ever actually
6 sat on the Commission. Are there any other jobs left at the
7 Commission that you didn't have?

8 A Well, in 1982, I became Deputy Chief of the Mass
9 Media Bureau. And that was a very I guess you would call
10 interesting time because it was in the very height of
11 deregulation under Mark Fowler. And I had an opportunity
12 not only to participate and direct a lot of the Commission
13 policies, but also I acted as the Deputy Chief for
14 Operations. So I oversaw the renewal area, oversaw the
15 hearing area as well.

16 Q Now, in that capacity as Deputy Chief, did you
17 come to know a fairly broad spectrum of licensees?

18 A I -- I guess in that capacity, in addition to the
19 administerial duties, I really enjoyed going to different
20 state associations. I enjoyed going to the NAB convention.
21 And I particularly enjoyed meeting different broadcasters.
22 I had an opportunity at those meetings, as well as various
23 meetings in my office or with the Bureau Chief or with the
24 Chairman or other Commissioners, to meet a very I think wide
25 cross-section of broadcasters.